

Programs of All-Inclusive Care for the Elderly (PACE)

Chapter 3 – Marketing

Table of Contents

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Transmittals for Chapter 3

10 - Introduction

20 - General Marketing Requirements

20.1 - Marketing Plan

20.2 - Non-English Materials

30 - Review Process

30.1 - Timeframes

30.2 - Approval or Disapproval

30.3 - Deemed Approval

40 - Prohibited Marketing Activities

50 - Part D Information

10 - Introduction

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

PACE organizations must inform the general public about their programs. This chapter provides guidance to the PACE organizations on CMS marketing requirements.

It is important to note that the marketing guidance set forth in this document is subject to change as communication technology and industry marketing practices continue to evolve. Moreover, the examples of marketing materials and promotional activities given in these guidelines are not all-inclusive. PACE organizations should apply the principles outlined in these guidelines to all relevant decisions, situations, and materials. Any new rule-making or interpretative guidance (e.g., Health Plan Management System (HPMS) guidance memoranda) may update the marketing guidance provided here, and sound judgment and consultation with CMS Account Managers should be used in situations where new guidance updates the guidance provided in this document. This manual will be periodically updated to incorporate new guidance.

20 - General Marketing Requirements

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

All marketing material must be free of material inaccuracies, misleading information and misrepresentations about the PACE Program as governed by 42 CFR § 460.82.

All marketing materials must inform a potential participant that he or she must receive all needed health care services (other than emergency services), including primary care and specialist physician services from the PACE organization or from an entity authorized by the PACE organization.

Marketing materials must also clearly state that PACE participants may be fully and personally liable for the costs of unauthorized or out-of-network services.

Specifically, a PACE organization must inform the public about its program and give prospective participants the following written information:

- An adequate description of the PACE organization's enrollment and disenrollment policies and requirements;
- PACE enrollment procedures;
- Description of benefits and services;
- Premium information, if applicable;
- Other information necessary for a prospective participant to make an informed decision about enrollment.

[42 CFR §§ 460.82(a)(2) and (d)]

20.1 - Marketing Plan

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

The PACE organization is required to establish, implement and maintain a documented marketing plan with measurable enrollment objectives and a system for tracking effectiveness.

Marketing plans and associated policies and procedures are submitted by the PACE organization and reviewed by the State Administering Agency and CMS as part of the provider application. These materials are also reviewed during onsite monitoring visits for any significant revisions to the marketing plan.

[42 CFR § 460.82(f); 71 FR 71279 (Dec. 8, 2006)]

20.2 - Non-English Materials

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

The PACE organization must furnish printed marketing materials to prospective and current participants in English and in any other principal languages of the community and in Braille if necessary.

The determination of the principle languages of a PACE organization's service area is a State determination. Therefore, CMS recommends that interested parties contact their State for specific information.

[42 CFR § 460.82(c); 71 FR 71279 (Dec. 8, 2006)]

30 - Review Process

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

All marketing material must be reviewed and approved by CMS and the State Administering Agency prior to their use, publication or distribution by the PACE organization.

CMS reviews initial marketing information as part of an entity's application for approval as a PACE organization, and approval of the application includes approval of marketing information.

After an organization is under a PACE program agreement, any new or revised marketing materials must be submitted for review by CMS and the State Administering Agency (SAA).

[42 CFR § 460.82(b)(1)]

30.1 - Timeframes

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

Once a PACE organization is under a PACE Agreement, any revisions to existing marketing information and new information are subject to certain time periods. CMS has 45 days to review and approve or disapprove any new or revised marketing pieces submitted by the PACE organization. The 45-day review clock begins on the date the PACE organization submits the marketing material in HPMS for CMS to review, or the date that the CMS Regional Office receives the material in hard copy.

The 45-day review period applies each time an individual piece of marketing material is submitted to CMS for review. For example, if marketing material is submitted to CMS for review and, on the 32nd day, CMS renders the decision of disapproved, upon correcting the material's deficiencies and resubmitting the piece, the 45-day clock starts anew.

[42 CFR § 460.82(b)(3)(i)]

30.2 - Approval or Disapproval

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

CMS approves or disapproves marketing information within 45 days after CMS receives the information from the organization or the SAA.

Notification of approval or disapproval will be sent to the PACE organization by CMS Regional office following agreement by the State Administering Agency.

Marketing materials, once approved, remain approved until either the material is altered by the PACE organization or conditions change such that the material is no longer accurate. However, CMS, in agreement with the State Administering Agency may, at any time, require a PACE organization to change any previously approved marketing materials if found to be inaccurate, in the event of a policy or benefit change, even if the original submission was accurate at the time of approval.

[42 CFR § 460.82(b)(1)]

30.3 - Deemed Approval

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

Marketing information is deemed approved, and the organization can distribute it, if CMS and the State administering agency do not disapprove the marketing material within the 45-day review period.

[42 CFR § 460.82(b)(3)(ii)]

40 - Prohibited Marketing Activities

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

A PACE organization must ensure that its employees or its agents do not conduct prohibited marketing activities which include the following:

- Discrimination of any kind among individuals who meet PACE eligibility standards, except that marketing may be directed to individuals eligible for PACE by reason of their age;
- Activities that could mislead or confuse potential participants, or misrepresent the PACE organization, CMS, or the State Administering Agency;
- Activities that involve gifts or payments to induce enrollment. For example, offering gifts to potential enrollees that attend a marketing presentation is permitted as long as these gifts are of a nominal value and are provided whether or not the individual enrolls in the PACE program. The gift cannot be a cash gift or be readily converted into cash regardless of the amount;
- Contracting outreach efforts to individuals or organizations whose sole responsibility involves direct contact with the elderly to solicit enrollment; or
- Unsolicited door-to-door marketing.

A prospective PACE organization is not permitted to market PACE services until they have an approved application and signed program agreement.

[42 CFR §§ 422.80(e), 460.82(b)(1) and (e); 71 FR 71278 (Dec. 8, 2006)]

50 - Part D Information

(Rev. 2, Issued: 06-09-11; Effective: 06-03-11; Implementation: 06-03-11)

PACE organizations must inform potential participants that they offer Medicare Part D prescription drug coverage. Informational materials must also inform participants that if they are in a PACE program they cannot be enrolled in a separate Medicare prescription drug plan and that joining a separate Medicare drug plan will cause them to lose their PACE health and prescription drug benefits.

Transmittals Issued for this Chapter

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[Back to top of Chapter](#)